

**MORRISON & FOERSTER LLP**

Jennifer L. Marines  
Benjamin W. Butterfield  
250 West 55th Street  
New York, NY 10019  
Telephone: (212) 468-8000  
Facsimile: (212) 468-7900  
jmarines@mofo.com  
butterfield@mofo.com

*Counsel to Icon Health & Fitness, Inc.*

**UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK**

In re:	)	
	)	Chapter 11
SEARS HOLDINGS CORPORATION, <i>et al.</i> ,	)	
	)	Case No. 18-23538 (RDD)
Debtors.	)	(Jointly Administered)
	)	
	)	

**LIMITED OBJECTION AND RESERVATION OF RIGHTS OF  
ICON HEALTH & FITNESS, INC. TO PROPOSED CURE COSTS AND  
ASSUMPTION OF EXECUTORY CONTRACTS**

1. ICON Health & Fitness, Inc. (“ICON”), by and through its undersigned counsel, Morrison & Foerster LLP, submits this limited objection and reservation of rights with respect to the *Notice of Cure Costs and Potential Assumption and Assignment of Executory Contracts and Unexpired Leases in Connection with Global Sale Transaction* [Docket No. 1731] (the “Assumption Notice”)<sup>1</sup> filed by the debtors in the above-captioned chapter 11 cases (collectively, the “Debtors”).

2. ICON is a manufacturer of premium fitness equipment, including brands such as NordicTrack and ProForm. The Assumption Notice states that the Debtors may assume and

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<sup>1</sup> Capitalized terms used and not otherwise defined herein have the meanings ascribed to them in the Assumption Notice.

assign to the Successful Bidder or its designated assignee the following contracts (collectively, the “ICON Contracts”):

- Contract No. 3554 between Debtor Sears, Roebuck and Co. and ICON, described as “Sears, Roebuck and Co. Universal Terms and Conditions” with a proposed cure amount of \$11,529,624; and
- Contract No. 3555 between Debtors Sears Holdings Management Corporation, Sears, Roebuck and Co., Sears Holdings Corporation, and ICON, dated as of November 28, 2018, with a proposed cure amount of \$0.

3. ICON has been working with the Debtors since the commencement of these chapter 11 cases to reconcile pre- and postpetition amounts outstanding under the various agreements between the parties. Although significant progress has been made, that reconciliation process is still underway and the proposed cure amounts do not accurately reflect ICON’s views on the total prepetition amounts presently outstanding under the ICON Contracts, nor do they appear to include postpetition amounts that may be outstanding. Accordingly, ICON submits this limited objection to the proposed cure amounts with respect to each of the ICON Contracts, and reserves the right to assert additional cure amounts upon completion of its claims reconciliation efforts with the Debtors.

4. In addition, in certain instances, the ICON Contracts identified for potential assumption by the Debtors reference only specific amendments to the applicable contracts, and do not appear to include the original agreement or any other amendments or ancillary terms that may remain in force. ICON objects to any attempt by the Debtors to “cherry pick” the ICON Contracts by seeking to assume some, but not all, of their obligations under a given ICON Contract.

5. Finally, with respect to any ICON Contracts that will expire by their own terms before any proposed assumption and assignment becomes effective, ICON objects to such

assumption and assignment to the extent it purports to extend the applicable contract expiration date without ICON's express consent.

Dated: January 26, 2019  
New York, New York

Respectfully submitted,

**MORRISON & FOERSTER LLP**

By: /s/ Jennifer L. Marines  
Jennifer L. Marines  
Benjamin W. Butterfield  
MORRISON & FOERSTER LLP  
250 West 55th Street  
New York, New York 10019-9601  
Telephone: (212) 468-8000  
Facsimile: (212) 468-7900  
jmarines@mofo.com  
bbutterfield@mofo.com

*Counsel to Icon Health & Fitness, Inc.*